

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X Docket No: 13CV0290 (LLS)

BRIAN PATRICK WOODS,

**ANSWER**

Plaintiff,

-against-

KENNETH A. PETTINE,

Defendant.

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The defendant by its attorneys, LITCHFIELD CAVO, LLP, answering the plaintiff's Complaint, herein upon information and belief:

**PRELIMINARY STATEMENT**

1. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 1 of the Complaint.

**THE PARTIES**

2. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 2 of the Complaint

3. Admits the allegations contained in paragraph 3 of the Complaint.

**JURISDICTION AND VENUE**

4. Deny each and every allegation contained in paragraph 4 of the Complaint.

5. Deny each and every allegation contained in paragraph 5 of the Complaint.

### **FACTUAL ALLEGATIONS**

6. Defendant repeats and realleges its answers to the allegations contained in paragraphs "1" through "5" of the Complaint which is recited in paragraph "6" thereof, with the same force and effect as if fully set forth herein at length.

7. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 7 of the Complaint, but admits Dr. Pettine is a physician.

8. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 8 of the Complaint.

9. Denies each and every allegation contained in paragraph 9 of the Complaint.

10. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 10 of the Complaint.

11. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 11 of the Complaint.

12. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 12 of the Complaint.

13. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 13 of the Complaint.

14. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 14 of the Complaint.

15. Deny each and every allegation contained in paragraph 15 of the Complaint.

16. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 16 of the Complaint.

17. Deny each and every allegation contained in paragraph 17 of the Complaint.

18. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 18 of the Complaint.

19. Deny each and every allegation contained in paragraph 19 of the Complaint.

20. Deny each and every allegation contained in paragraph 20 of the Complaint.

21. Deny each and every allegation contained in paragraph 21 of the Complaint.

22. Deny each and every allegation contained in paragraph 22 of the Complaint.

23. Deny each and every allegation contained in paragraph 23 of the Complaint.

24. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 24 of the Complaint.

25. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 25 of the Complaint.

26. Deny each and every allegation contained in paragraph 26 of the Complaint.

27. Deny each and every allegation contained in paragraph 27 of the Complaint.

28. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 28 of the Complaint.

29. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 29 of the Complaint.

30. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 30 of the Complaint.

31. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 31 of the Complaint.

32. Deny each and every allegation contained in paragraph 32 of the Complaint.

33. Deny each and every allegation contained in paragraph 33 of the Complaint.

34. Deny each and every allegation contained in paragraph 34 of the Complaint.

35. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 35 of the Complaint.

36. Deny each and every allegation contained in paragraph 36 of the Complaint.

37. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 37 of the Complaint.

38. Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph 38 of the Complaint.

39. Deny each and every allegation contained in paragraph 39 of the Complaint.

40. Deny each and every allegation contained in paragraph 40 of the Complaint.

41. Deny each and every allegation contained in paragraph 41 of the Complaint.

42. Deny each and every allegation contained in paragraph 42 of the Complaint.

**FIRST CAUSE OF ACTION  
(Breach of Contract)**

43. Defendant repeats and realleges its answers to the allegations contained in paragraphs "1" through "42" of the Complaint which is recited in paragraph "43" thereof, with the same force and effect as if fully set forth herein at length.

44. Deny each and every allegation contained in paragraph 44 of the Complaint.

45. Deny each and every allegation contained in paragraph 45 of the Complaint.

46. Deny each and every allegation contained in paragraph 46 of the Complaint.

47. Deny each and every allegation contained in paragraph 47 of the Complaint.

48. Deny each and every allegation contained in paragraph 48 of the Complaint.

**SECOND CAUSE OF ACTION  
(Promissory Estoppel)**

49. Defendant repeats and realleges its answers to the allegations contained in paragraphs "1" through "48" of the Complaint which is recited in paragraph "49" thereof, with the same force and effect as if fully set forth herein at length.

50. Deny each and every allegation contained in paragraph 50 of the Complaint.

51. Deny each and every allegation contained in paragraph 51 of the Complaint.

52. Deny each and every allegation contained in paragraph 52 of the Complaint.

53. Deny each and every allegation contained in paragraph 53 of the Complaint.

54. Deny each and every allegation contained in paragraph 54 of the Complaint.

55. Deny each and every allegation contained in paragraph 55 of the Complaint.

56. Deny each and every allegation contained in paragraph 56 of the Complaint.

57. Deny each and every allegation contained in paragraph 57 of the Complaint.

58. Deny each and every allegation contained in paragraph 58 of the Complaint.

59. Deny each and every allegation contained in paragraph 59 of the Complaint.

**THIRD CAUSE OF ACTION  
(Unjust Enrichment)**

60. Defendant repeats and realleges its answers to the allegations contained in paragraphs "1" through "59" of the Complaint which is recited in paragraph "60" thereof, with the same force and effect as if fully set forth herein at length.

61. Deny each and every allegation contained in paragraph 61 of the Complaint.

62. Deny each and every allegation contained in paragraph 62 of the Complaint.

63. Deny each and every allegation contained in paragraph 63 of the Complaint.

64. Deny each and every allegation contained in paragraph 64 of the Complaint.

65. Deny each and every allegation contained in paragraph 65 of the Complaint.

**FOURTH CAUSE OF ACTION  
(Quantum Meruit)**

66. Defendant repeats and realleges its answers to the allegations contained in paragraphs "1" through "65" of the Complaint which is recited in paragraph "66" thereof, with the same force and effect as if fully set forth herein at length.

67. Deny each and every allegation contained in paragraph 67 of the Complaint.

68. Deny each and every allegation contained in paragraph 68 of the Complaint.

69. Deny each and every allegation contained in paragraph 69 of the Complaint.

70. Deny each and every allegation contained in paragraph 70 of the Complaint.

71. Deny each and every allegation contained in paragraph 71 of the Complaint.

**FIFTH CAUSE OF ACTION  
(Breach of Contract Implied in Fact)**

72. Defendant repeats and realleges its answers to the allegations contained in paragraphs "1" through "71" of the Complaint which is recited in paragraph "72" thereof, with the same force and effect as if fully set forth herein at length.

73. Deny each and every allegation contained in paragraph 73 of the Complaint.



74. Deny each and every allegation contained in paragraph 74 of the Complaint.

**AFFIRMATIVE DEFENSES**

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

Any damages or injuries sustained by the plaintiff came about as a result of his culpable conduct and any recovery on the part of the plaintiff shall be diminished in accordance with the guidelines set forth in that article.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

Plaintiff failed to perform a condition precedent to any contract.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

No consideration was provided by the plaintiff.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

That the plaintiff's causes of action are barred by the Statutes of Frauds.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

No valid contract existed between the parties.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

This action is barred by plaintiff's consent to submit all claims or controversies to arbitration.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

The plaintiff is not entitled to recovery by reason of his failure to mitigate damages.

**AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE**

This action is barred by a pre-existing agreement by plaintiff that any controversy or claim arising out of a contractual relationship with the defendant would be settled in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE**

That this answering defendant did not owe this plaintiff any of the duties alleged in this lawsuit.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE**

This Court lacks in personam jurisdiction over the person of the Defendant

**AS AND FOR AN ELEVENTH COMPLETE AFFIRMATIVE DEFENSE**

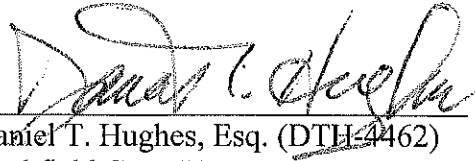
That the complaint fails to set forth facts sufficient to constitute a cause and/or causes of action upon which relief may be granted.

**AS AND FOR A TWELFTH COMPLETE AFFIRMATIVE DEFENSE**

Plaintiff's cause of action may be barred by the equitable doctrine of laches, waiver, estoppel and/or the doctrine of unclean hands.

**WHEREFORE**, defendant demands judgment dismissing plaintiff's complaint against it, together with the costs and disbursements of this action, and for any expense incurred by them in the defense thereof, including attorneys' fees.

Dated: New York, New York  
April 29, 2013



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